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November 20, 2012

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VIA E-MAIL

Jeff S. Jordan, Esquire  
Supervisory Attorney  
Office of the General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Re: MUR 6654  
Steve Obsitnik for Congress, Inc. and Bradley Crate, as Treasurer

Dear Mr. Jordan:

Please find attached the response of our clients, Steve Obsitnik for Congress, Inc. and Bradley Crate, as Treasurer, to the complaint against them in the above-captioned matter.

Please do not hesitate to contact us with any questions.

Respectfully submitted,



William J. McGinley

Attachment

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BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of

Steve Obsitnik for Congress, Inc.  
And Bradley Crate, as Treasurer

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MUR 6654

RESPONSE OF STEVE OBSITNIK FOR CONGRESS, INC.  
AND BRADLEY CRATE, AS TREASURER, TO THE COMPLAINT FILED  
BY THE CONNECTICUT DEMOCRATIC PARTY

This responds to the Complaint filed by the Connecticut Democratic Party ("CDP") against our clients, Steve Obsitnik for Congress, Inc. ("Committee") and Bradley Crate, as Treasurer, in the above-referenced matter. As explained below, the event in question was a small fundraising event that generated minimal expenses for the individuals hosting the event in their residence, and a limited amount of receipts for the Committee. In short, this event was the type of grassroots event that the Federal Election Commission ("Commission") should permit, not chill through an enforcement action. Given the CDP's fundamental misunderstanding regarding the nature of the event, we respectfully urge the Commission to dismiss this matter, close the file, and take no further action. Alternatively, given the limited activity involved, the Commission should dismiss the Complaint based on its prosecutorial discretion. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

Commission regulations contemplate that when more than one political committee engage in joint fundraising activities, the committees are permitted to sign a joint fundraising agreement, appoint a representative, and follow the other requirements set forth in 11 CFR § 102.17. *See* 48 Fed. Reg. 26298 ("Subsection (a)(1)(i) states the general permission allowing political committees to engage in joint fundraising with other political committees . . ."). Primary among the issues covered by section 102.17 are the procedures for committees to advance funds to cover fundraising costs and the allocation of gross proceeds to cover fundraising expenses. *See id.* §§ 102.17(c)(3) & (7). In short, the joint fundraising regulations apply to the situation where more than one political

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committee engages in joint fundraising activities and each committee is required to advance funds to cover the costs or the costs must be covered by gross proceeds generated by the activity. These procedures ensure that one committee does not receive an excess benefit from another committee that pays more than its allocable share of the expenses.

Commission regulations, however, specifically exempt from the definition of contribution and expenditure the payment by an individual for invitations, food and beverages provided in his or her residential premises for candidate-related activity. 11 CFR §§ 100.77 & 100.137. An individual may spend up to \$1,000 per election per candidate on such expenses without them constituting a contribution or expenditure under Commission regulations. The Complaint fails to allege any facts establishing that the exemption does not apply and, upon information and belief, the event in this matter does indeed fall within this exemption.

- The Committees did not share costs or allocate proceeds.
- Event hosts, Cynthia & Mac Brighton, paid for all expenses related to the event, which was held in their private residence, with their own personal funds. See Complaint Exhibits A & B (identifying the location of the event as "At The Home Of Cynthia & Mac Brighton").
- The minimal costs of the event (for three to four hors d'oeuvres trays and beverages) did not exceed \$1,000 and were thus well within the exemption to the definition of contribution described in 11 C.F.R. § 100.77.
- Expenses that do not constitute food, beverages and invitations such as catering staff to distribute the food and flowers for the event totaled approximately \$650 – an amount well below the \$2,500 per election contribution limit for an individual or the \$2,000 per election contribution limit between authorized committees.
- Individuals attending the event wrote checks directly to each of the campaigns listed on the invitation.
- The event raised approximately eleven thousand dollars for each candidate.

Accordingly, the fundraising event hosted by Mr. and Mrs. Brighton falls within the volunteer exemption for campaign-related activity on their residential premises and the Commission must dismiss this matter.

Contrary to the speculative allegations in the Complaint, the cost and scope of this event do not even begin to approach the circumstances detailed in MUR 5780. In MUR 5780, the event benefiting the campaign and the state party raised over one million dollars. See MUR 5780 Factual

and Legal Analysis at 3-4. Accordingly, Complainant's reliance on MUR 5780 is misplaced and the small in-home fundraising event at issue in the instant matter is materially distinguishable.

Alternatively, the Commission should exercise its prosecutorial discretion and dismiss the complaint in light of the limited amount of activity and expenses at issue in this matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985); *see also* MUR 6039, Factual and Legal Analysis at 3 ("The Commission has determined that because of the low dollar amounts involved it is appropriate to dismiss the complaint" alleging violations of the Commission's joint fundraising regulations in connection with an in-home fundraiser). The in-home fundraising event at issue in this matter was a small, one-time event that did not prevent disclosure, nor did it enhance the possibility of one of the Committees receiving excess or prohibited contributions. MUR 6039, First General Counsel's Report at 5 (April 6, 2009). Upon information and belief, there were no shared receipts and the Committee collected and screened the contributions made directly to the Committee. *See id.* at 6-7; *see also id.* at 6 ("Again, the minimal costs of the event and the direct contributions to the participating committees make the requirement of a separate depository account for proper allocation and recordkeeping of receipts and disbursements almost unnecessary in this case."). Accordingly, the Commission should exercise its prosecutorial discretion and dismiss this matter pursuant to *Heckler v. Chaney*.

For the reasons stated above, the Office of the General Counsel must recommend and the Commission must find no reason to believe, dismiss the matter, and close the file.

Respectfully submitted,



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